

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CENTRAL IOWA POWER COOPERATIVE	DOCKET NO. P-842
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued April 26, 2001)

APPEARANCES:

MR. MARK LANDA, Attorney at Law, Sullivan & Ward, P.C., 801 Grand Ave., Suite 3500, Des Moines, Iowa 50309-2719, appearing on behalf of Central Iowa Power Cooperative.

MS. JENNIFER C. EASLER, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

STATEMENT OF THE CASE

On November 1, 2000, Central Iowa Power Cooperative (CIPCO) filed a petition for a permit to construct, operate, and maintain approximately 4.6 miles of 8-inch diameter steel pipeline for the transportation of natural gas in Adair and Union Counties, Iowa. (petition for permit; testimony of Mr. Gerdes) CIPCO amended its petition on January 31, 2001 and April 20, 2001. (petition for permit) CIPCO filed a land restoration plan with its petition, and amended the plan on January 31, 2001. (petition exhibit F-1, land restoration plan; O'Neal report) The proposed pipeline will provide natural gas service to CIPCO's existing Summit Lake

electric power plant near Creston in Union County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Gerdes)

On March 7, 2001, the Utilities Board (Board) assigned this case to a presiding officer. A procedural schedule was established by an order issued on March 13, 2001. In that order, the presiding officer set April 24, 2001 as the date for the hearing on the petition. Also in that order, the presiding officer proposed to take official notice of a March 12, 2001 report concerning the pipeline prepared by Mr. Jeffrey O'Neal, a regulatory engineer for the Utilities Division's Safety and Engineering Section.

CIPCO caused notice of the hearing to be published in Union County in the Creston News Advertiser, a newspaper of general circulation in the county, on April 2 and 9, 2001. (affidavit of publication) CIPCO also caused notice of the hearing to be published in Adair County in The Adair News, a newspaper of general circulation in the county, on April 5 and 12, 2001. (affidavit of publication)

CIPCO filed prepared direct testimony of Mr. Greg Gerdes and Mr. Ed Hatter on March 29, 2001. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a statement in lieu of testimony on April 17, 2001. The Consumer Advocate stated it would not file prepared responsive testimony and did not object to the proposal to take official notice of the O'Neal report.

The hearing was held on April 24, 2001. Mr. Greg Gerdes, supervisor of generation and engineering for CIPCO, and Mr. Ed Hatter, senior engineer for UtiliCorp United (UtiliCorp), testified on behalf of CIPCO. (testimony of Mr. Gerdes and Mr. Hatter) Mr. Jeffrey O'Neal testified on behalf of the Board.

DISCUSSION OF THE EVIDENCE

CIPCO seeks a permit to construct, operate, and maintain a new natural gas pipeline approximately 4.6 miles long in Adair and Union Counties, Iowa. (petition for permit; testimony of Mr. Gerdes) The proposed pipeline will provide natural gas service to CIPCO's existing Summit Lake electric power plant near Creston in Union County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Gerdes)

The proposed pipeline will be an 8-inch steel line with a maximum allowable operating pressure (MAOP) of 740 psig. (petition exhibit C; testimony of Mr. Gerdes; O'Neal report) The proposed pipeline will follow a route described in exhibit A attached to the petition for a permit (as amended). (petition for permit exhibit A)

CIPCO has contracted with UtiliCorp to assist it with construction, operation, and maintenance of the pipeline facilities and training of CIPCO employees. (testimony of Mr. Gerdes and Mr. Hatter) UtiliCorp and Mr. Hatter have considerable experience in design, construction, operation, maintenance, and training regarding gas pipelines. (testimony of Mr. Hatter) UtiliCorp will construct the pipeline facilities, assist CIPCO in negotiating the required tap agreements with Natural Gas Pipeline of America (NGPL), assist CIPCO in operating and maintaining the pipeline, and provide all training required by federal and state law to CIPCO employees. (testimony of Mr. Gerdes and Mr. Hatter) Utilicorp has prepared a required operations and maintenance manual and emergency plan for the proposed pipeline and has provided it to CIPCO. (testimony of Mr. Gerdes and Mr. Hatter) Although CIPCO submitted prefiled testimony of Mr. Gerdes that indicated CIPCO employees would eventually take over operation and maintenance of the pipeline, Mr. Gerdes

testified at the hearing that UtiliCorp will continue to assist CIPCO with operation and maintenance of the pipeline on a permanent basis. (testimony of Mr. Gerdes) Mr. Gerdes also testified that placing a requirement in CIPCO's permit that CIPCO notify the Board if it changes contractors would be acceptable to CIPCO. (testimony of Mr. Gerdes)

CIPCO is obligated to design, construct, operate and maintain this pipeline in accordance with the standards adopted by reference at 199 IAC § 10.12(1), which include the federal natural gas pipeline safety standards found in 49 C.F.R. Part 192. Mr. Reed Helm, utility regulatory inspector for the Board, inspected the proposed pipeline route on December 29, 2000 per Iowa Code § 479.11 (2001). (Helm memo; O'Neal report) Mr. Jeffrey O'Neal, regulatory engineer for the Board, reviewed the CIPCO petition and exhibits. (O'Neal report) He concluded that CIPCO should address a number of remaining questions in testimony. (O'Neal report) At the hearing, Mr. O'Neal testified that after hearing CIPCO's testimony at the hearing, he had no remaining questions or concerns. (testimony of Mr. O'Neal)

The pipeline meets all design, construction, and testing requirements. (petition for permit; O'Neal report; testimony of Mr. O'Neal, Mr. Gerdes, and Mr. Hatter) CIPCO has obtained all required permits and necessary easements. (petition for permit; testimony of Mr. Gerdes) No objections or complaints have been filed by any landowners regarding the petition for permit. (petition for permit; testimony of Mr. O'Neal and Mr. Gerdes)

CIPCO owns non-pipeline property within the state subject to execution of a reasonable value in excess of \$250,000. (petition for permit exhibit D)

CIPCO filed a land restoration plan with its permit application, and amended the plan on January 31, 2001. (petition exhibit F-1, land restoration plan; O'Neal report) The land restoration plan filed by CIPCO adequately addresses the land restoration issues specified in the land restoration statute and board rules. (petition exhibit F-1, land restoration plan; O'Neal report)

ANALYSIS

Iowa Code §§ 479.12 and 479.26 (2001) apply to all petitions for pipeline permits. Section 479.12 provides that:

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is granted to a pipeline company, the board, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

Iowa Code § 479.12 (2001). Section 479.26 requires any applicant for a pipeline permit to establish that it has property subject to execution within Iowa, other than pipelines, of a value greater than two hundred fifty thousand dollars, or it must file and maintain a surety bond of the same amount. The applicant may satisfy this requirement in any of several prescribed ways. Iowa Code § 479.26 (2001); 199 IAC §10.2(1)(d).

Together, these statutes generate four issues: (1) whether the services the petitioner proposes to render will promote the public convenience and necessity; (2) whether it is just and proper to impose terms, conditions and restrictions involving safety requirements upon the permit; (3) whether it is just and proper to impose

terms, conditions and restrictions as to location and route of the pipeline upon the permit; and (4) whether the petitioner has presented adequate proof of satisfactory financial condition. These issues will be addressed in turn.

First, the evidence shows that this pipeline is necessary to provide natural gas service to CIPCO's existing Summit Lake electric power plant near Creston in Union County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Gerdes) The Summit Lake plant is currently served by Alliant Energy (Alliant). (testimony of Mr. Gerdes) This service is subject to limitations and interruptions and does not provide the plant with enough natural gas for full load operation of the power plant, to the extent that CIPCO is forced to burn fuel oil for the bulk of the plant's electrical generation requirements. (testimony of Mr. Gerdes) CIPCO discussed the cost of providing enough natural gas to meet the plant's needs with Alliant. (testimony of Mr. Gerdes) However, the plant requires large amounts of natural gas for relatively short periods of time with very little advance notice to Alliant. (testimony of Mr. Gerdes) Because of this requirement, Alliant would charge CIPCO a premium for the gas it needed, and it was financially advantageous to CIPCO to construct its own pipeline. (testimony of Mr. Gerdes) Therefore, the service promotes the public convenience and necessity. (petition for permit; O'Neal report; testimony of Mr. Gerdes)

Second, the evidence shows the pipeline will comply with the construction, safety and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. O'Neal, Mr. Gerdes and Mr. Hatter; O'Neal report) There is no reason to impose additional safety-related

terms, conditions, and restrictions upon the permit other than the following. CIPCO is a rural electric cooperative with no experience or expertise in the design, construction, operation and maintenance of natural gas pipelines. (O'Neal report; testimony of Mr. Gerdes) It has therefore contracted with UtiliCorp to perform the required functions it does not have the expertise to be able to perform itself. (testimony of Mr. Gerdes and Mr. Hatter) CIPCO has agreed to a permit term that would require CIPCO to notify the Board if it changes its contractor to someone other than UtiliCorp. (Testimony of Mr. Gerdes)

The third issue is whether terms, conditions, or restrictions as to location and route should be imposed. Iowa Code § 479.12 (2001). The evidence shows the location and route are reasonable and there is no reason the location or route of the pipeline should be changed, or that terms, conditions and restrictions regarding the location or route should be added to the permit. (petition for permit; O'Neal report; testimony of Mr. Gerdes and Mr. Hatter) The existing pipeline immediately to the west of CIPCO's power plant does not have sufficient capacity to provide CIPCO with its natural gas requirements. (testimony of Mr. Gerdes and Mr. Hatter)

Finally, in accordance with Iowa Code § 479.26, CIPCO has satisfactorily demonstrated that it has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (petition exhibit D)

Iowa Code § 479.29(9) (2001) provides that:

Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of this section, and of rules adopted pursuant to this section, will be met.

The requirements of § 479.29 apply to pipeline construction projects commenced on or after June 1, 1999. Iowa Code § 479.29(12) (2001). The Board has adopted land restoration rules pursuant to Iowa Code § 479.29(1) (2001) at 199 IAC Chapter 9. CIPCO's land restoration plan must comply with the requirements of Iowa Code § 479.29 (2001) and 199 IAC Chapter 9.

The land restoration plan filed by CIPCO adequately addresses the land restoration issues contained in Iowa Code § 479.29 (2001) and 199 IAC Chapter 9. (petition exhibit F-1, land restoration plan; testimony of Mr. Gerdes; O'Neal memo) CIPCO has provided a copy of its land restoration to all landowners of property that will be disturbed by construction of the pipeline as required by Iowa Code § 479.29(9) (2001). (testimony of Mr. Gerdes)

FINDINGS OF FACT

1. CIPCO is a pipeline company within the meaning of Iowa Code § 479.2 (2001). (testimony of Mr. Gerdes and Mr. Hatter; petition; O'Neal report)

2. On November 1, 2000, CIPCO filed a petition for a permit to construct, operate, and maintain approximately 4.6 miles of 8-inch diameter steel pipeline for the transportation of natural gas in Adair and Union Counties, Iowa. (petition for permit; testimony of Mr. Gerdes) CIPCO amended its petition on January 31, 2001 and April 20, 2001. (petition for permit) CIPCO filed a land restoration plan with its petition, and amended the plan on January 31, 2001. (petition exhibit F-1, land restoration plan; O'Neal report)

3. CIPCO has contracted with UtiliCorp to assist it with construction, operation, and maintenance of the pipeline facilities and training of CIPCO

employees. (testimony of Mr. Gerdes and Mr. Hatter) UtiliCorp and Mr. Hatter have considerable experience in design, construction, operation, maintenance, and training regarding gas pipelines. (testimony of Mr. Hatter) UtiliCorp will construct the pipeline facilities, assist CIPCO in negotiating the required tap agreements with Natural Gas Pipeline of America (NGPL), assist CIPCO in operating and maintaining the pipeline, and provide all training required by federal and state law to CIPCO employees. (testimony of Mr. Gerdes and Mr. Hatter) Utilicorp has prepared a required operations and maintenance manual and emergency plan for the proposed pipeline and has provided it to CIPCO. (testimony of Mr. Gerdes and Mr. Hatter)

4. CIPCO caused notice of the hearing to be published in Union County in the Creston News Advertiser, a newspaper of general circulation in the county, on April 2 and 9, 2001. (affidavit of publication) CIPCO also caused notice of the hearing to be published in Adair County in The Adair News, a newspaper of general circulation in the county, on April 5 and 12, 2001. (affidavit of publication) CIPCO filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 (2001) and 199 IAC 10.4. (affidavit of publication, proof of payment)

5. This pipeline is necessary to provide natural gas service to CIPCO's existing Summit Lake electric power plant near Creston in Union County, Iowa. (petition for permit; O'Neal report; testimony of Mr. Gerdes) The Summit Lake plant is currently served by Alliant Energy (Alliant). (testimony of Mr. Gerdes) This service is subject to limitations and interruptions and does not provide the plant with enough natural gas for full load operation of the power plant, to the extent that CIPCO is forced to burn fuel oil for the bulk of the plant's electrical generation

requirements. (testimony of Mr. Gerdes) CIPCO discussed the cost of providing enough natural gas to meet the plant's needs with Alliant. (testimony of Mr. Gerdes) However, the plant requires large amounts of natural gas for relatively short periods of time with very little advance notice to Alliant. (testimony of Mr. Gerdes) Because of this requirement, Alliant would charge CIPCO a premium for the gas it needed, and it was financially advantageous to CIPCO to construct its own pipeline. (testimony of Mr. Gerdes) Therefore, the service promotes the public convenience and necessity as required by Iowa Code § 479.12 (2001). (petition for permit; O'Neal report; testimony of Mr. Gerdes)

6. The pipeline will comply with the construction, safety, and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. O'Neal, Mr. Gerdes and Mr. Hatter; O'Neal report) There is no reason to impose additional safety-related terms, conditions, and restrictions upon the permit other than the following. CIPCO is a rural electric cooperative with no experience or expertise in the design, construction, operation and maintenance of natural gas pipelines. (O'Neal report; testimony of Mr. Gerdes) It has therefore contracted with UtiliCorp to perform the required functions it does not have the expertise to be able to perform itself. (testimony of Mr. Gerdes and Mr. Hatter) CIPCO has agreed to a permit term that would require CIPCO to notify the Board if it changes its contractor to someone other than UtiliCorp. (testimony of Mr. Gerdes)

7. The location and route of the proposed pipeline is reasonable, does not need to be changed, and no further terms, conditions, or restrictions need to be

imposed pursuant to Iowa Code § 479.12 (2001). (petition for permit; O'Neal report; Helm memo)

8. CIPCO has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 (2001) and 199 IAC 10.2(1)(d). (petition exhibit D)

9. No objections to the petition for a permit were filed. (testimony of Mr. O'Neal)

10. The land restoration plan filed by CIPCO adequately addresses the land restoration issues contained in Iowa Code § 479.29 (2001) and 199 IAC Chapter 9. (petition exhibit F-1, land restoration plan; testimony of Mr. Gerdes; O'Neal memo) CIPCO has provided a copy of its land restoration plan to all landowners of property that will be disturbed by construction of the pipeline as required by Iowa Code § 479.29(9) (2001) and 199 IAC 9.3(3). (testimony of Mr. Gerdes)

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12 and 479.18 (2001); 199 IAC 10.7.

2. The Board has jurisdiction over CIPCO, and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12 and 479.18 (2001).

3. The petition of CIPCO for issuance of a permit for the natural gas pipeline in Docket No. P-842 should be granted. Iowa Code §§ 479.11, 479.12, 479.26, and 479.29 (2001); 199 IAC Chapters 9 and 10.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated March 12, 2001, filed in this docket by Mr. Jeffrey O'Neal, regulatory engineer for the Board. Official notice is also taken of the Notice by FERC of Natural Gas Pipeline Company of America's request for authorization to construct and operate delivery point facilities to serve the proposed CIPCO pipeline at issue in this case received by the Board on April 17, 2001.

2. CIPCO must file an amended Statement of Damage Claims with the Board by May 1, 2001, as discussed at the hearing. The permit will not be issued until a Statement of Damages Claims that adequately addresses the issues discussed at the hearing is filed. In addition, CIPCO must notify the affected landowners of their choice of whether to calculate crop damages at the time of completion of the pipeline across the landowners' property or at the time of harvest, as discussed at the hearing.

3. Pursuant to Iowa Code Chapter 479 (2001), the petition for a pipeline permit filed by CIPCO in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board. One term of the permit will be that CIPCO will notify the Board if it changes its contractor to anyone other than UtiliCorp, or ceases to use a contractor to assist it with operation and maintenance of the pipeline.

4. CIPCO must comply with the land restoration plan it filed with the petition (as amended) and the provisions of Iowa Code § 479.29 (2001) and 199 IAC Chapter 9.

5. CIPCO must provide timely notice to the Utilities Division before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline with the Utilities Division.

6. After CIPCO completes construction of the new pipeline, it must file a construction completion report with the Utilities Division. This report must include information regarding any unusual construction problems or occurrences, and a copy of the pressure test procedures used and the results obtained.

7. Within 180 days after completion of the construction of the new pipeline, CIPCO must file a map that accurately shows the location of the pipeline route as constructed. The map will be a part of the record in this case, and will serve as the route description in the permit granted in this proceeding.

8. The Utilities Board retains jurisdiction of the subject matter in this docket.

9. Ordinarily, this proposed decision would become the final decision of the Board unless appealed to the Board within fifteen days of its issuance. Iowa Code § 17A.15(3) (2001); 199 IAC § 7.8(2). However, under appropriate circumstances, it is possible to reduce the time for appeal. 199 IAC 1.3, 7.8(2); Iowa Code §17A.15(3) (2001). CIPCO would prefer a reduced appeal period. No objections to this petition were filed. The Consumer Advocate does not object to a reduced appeal period. There are no unresolved issues that indicate a need for the

15-day appeal period. **Therefore, this proposed decision will become the final decision of the Board unless appealed to the Board within five (5) days of its issuance.**

UTILITIES BOARD

/s/ Amy L. Christensen

Amy L. Christensen

Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper

Acting Executive Secretary

Dated at Des Moines, Iowa, this 26th day of April, 2001.